

DISTRICT CLERK

**CASE SUMMARY****CASE NO. 37801**

Jasper N. Long vs. Faenas Transport, LLC

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§  
§  
§

Location: District Clerk

Filed on: 01/22/2019

**CASE INFORMATION**

Case Type: Civil Case - Other

**DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number

37801

Court

District Clerk

Date Assigned

01/22/2019

**PARTY INFORMATION****Plaintiff**

Long, Jasper N.

*Lead Attorneys***STOVER, SCOTT W.***Retained*

409-384-3463(W)

**Defendant**

Faenas Transport, LLC

**DATE****EVENTS & ORDERS OF THE COURT****INDEX**

01/22/2019



CITATION BY CERTIFIED MAIL

Party: Defendant Faenas Transport, LLC

01/22/2019

Citation

Faenas Transport, LLC

Returned Unserved

03/26/2019

01/22/2019



Original Petition (OCA)

Plaintiff's Original Petition

01/24/2019



CITATION

Party: Defendant Faenas Transport, LLC

2ND ISSUANCE; EMAILED TO KIM/SCOTT - CB

01/24/2019

Citation

Faenas Transport, LLC

Unserved

01/24/2019



REQUEST

Request for Issuance of Service

04/18/2019



AMENDED

Plaintiff's First Amended Petition filed by Scott Stover (local atty) &amp; Dana K Martin-kf

**DATE****FINANCIAL INFORMATION**

Plaintiff Long, Jasper N.

Total Charges

440.00

Total Payments and Credits

440.00

Balance Due as of 4/24/2019

0.00

CLERK OF THE COURT	PLAINTIFF OR ATTORNEY FOR PLAINTIFF
Kathy Kent, District Clerk 121 N. Austin, Room 202 Jasper, Texas 75951 409-384-2721	SCOTT W. STOVER PO BOX 480 JASPER TX 75951 409-384-3463

CAUSE NO. 37801

THE STATE OF TEXAS  
CITATION FOR PERSONAL SERVICE

**COPY**

**NOTICE TO DEFENDANT:** "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by Ten O'clock (10:00) A.M. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you."

**TO: DEFENDANT**  
**FAENAS TRANSPORT, LLC**  
**4436 SOUTH ORLEANS WAY**  
**WEST VALLEY CITY, UT. 84120**

**GREETINGS:** You are hereby commanded to appear before the District Clerk of Jasper County, Texas, to be held at the Courthouse of said County in Jasper, Jasper County, Texas, by filing a written answer to Original Petition (OCA) at or before Ten o'clock (10:00) A.M. on the Monday next after the expiration of twenty (20) days after the date of service hereof, a copy of **PLAINTIFF'S ORIGINAL PETITION**, which accompanies this citation in Cause Number 37801, filed on the docket of said Court on this date: **January 22, 2019**, and styled,

**JASPER N. LONG VS. FAENAS TRANSPORT, LLC**

The officer executing this writ shall serve the same according to the requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at Jasper, Texas, this date: **January 22, 2019**

**Kathy Kent, DISTRICT CLERK**  
**JASPER COUNTY, TEXAS**

By: Lancy Horne, Deputy

**SERVICE OF CITATION RETURN**

Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M. and, executed at \_\_\_\_\_ County, Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M., by delivering to the within-named defendant, in person, a true copy of this Citation. \_\_\_\_\_ County, Texas

BY: \_\_\_\_\_  
 Constable/Deputy

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR  
CLERK OF COURT

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The return must either be verified or be signed under penalty or perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is \_\_\_\_\_ my date of birth is \_\_\_\_\_

(First, Middle, and Last)

and my address is \_\_\_\_\_

(Street, City, and Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE  
AND CORRECT.

Executed in \_\_\_\_\_, County, State of \_\_\_\_\_, on

the \_\_\_\_\_ day of \_\_\_\_\_

Declarant / Authorized Process Server

(ID # and Expiration of Certification)

RETURN TO:

Kathy Kent

Jasper County District Clerk

121 N. Austin, Rm. 202

Jasper, Texas 75951

**U.S. Postal Service™**  
**CERTIFIED MAIL® RECEIPT**  
*Domestic Mail Only*

For delivery information, visit our website at [www.usps.com](http://www.usps.com)™.

**OFFICIAL USE**

Certified Mail Fee \$

Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

Postage \$

Postmark Here

FAENAS TRANSPORT, LLC  
 4436 SOUTH ORLEANS WAY  
 WEST VALLEY CITY, UT. 84120  
*Cause 37801*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7017 0530 0001 0634 5116  
 7017 0530 0001 0634 5116

WEST VALLEY CITY, UT. 84120



**FOR RETURN**

CLERK OF THE COURT	PLAINTIFF OR ATTORNEY FOR PLAINTIFF
Kathy Kent, District Clerk 121 N. Austin, Room 202 Jasper, Texas 75951 409-384-2721	SCOTT W. STOVER PO BOX 480 JASPER TX 75951 409-384-3463

CAUSE NO. 37801

THE STATE OF TEXAS  
**CITATION FOR PERSONAL SERVICE**

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**JASPER N. LONG VS. FAENAS TRANSPORT, LLC**

The officer executing this writ shall serve the same according to the requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at Jasper, Texas, this date: **January 24, 2019**

Kathy Kent, DISTRICT CLERK

JASPER COUNTY, TEXAS

By: *Cherry Brown*

Deputy

**SERVICE OF CITATION RETURN**

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\_\_\_\_\_ County, Texas

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AND CORRECT.

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the \_\_\_\_\_ day of \_\_\_\_\_

Declarant / Authorized Process Server

(ID # and Expiration of Certification)

RETURN TO:

Kathy Kent

Jasper County District Clerk

121 N. Austin, Rm. 202

Jasper, Texas 75951

**SERVICE COPY**

<b>CLERK OF THE COURT</b> Kathy Kent, District Clerk 121 N. Austin, Room 202 Jasper, Texas 75951 409-384-2721	<b>PLAINTIFF OR A PERSON FOR PLAINTIFF</b> SCOTT W. STOVER PO BOX 480 JASPER TX 75951 409-384-3463
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CAUSE NO. 37801

THE STATE OF TEXAS  
**CITATION FOR PERSONAL SERVICE**

**NOTICE TO DEFENDANT:** "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by Ten O'clock (10:00) A.M. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you."

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**WEST VALLEY CITY, UT 84120**

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**JASPER N. LONG VS. FAENAS TRANSPORT, LLC**

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Issued and given under my hand and seal of said Court at Jasper, Texas, this date: **January 24, 2019**

Kathy Kent, DISTRICT CLERK  
 JASPER COUNTY, TEXAS

By: *Cheryl Brown*

Deputy

**SERVICE OF CITATION RETURN**

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\_\_\_\_\_  
 County, Texas

BY: \_\_\_\_\_

Constable/Deputy

37801

CAUSE NO. \_\_\_\_\_

JASPER N. LONG.

Plaintiff

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IN THE DISTRICT COURT

v.

1ST JUDICIAL DISTRICT

FAENAS TRANSPORT, LLC.

Defendant.

JASPER COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION**

COMES NOW, Jasper N. Long ("Long"), Plaintiff in the above-entitled and numbered cause, complaining of FAENAS Transport, LLC ("FAENAS"), Defendant, and in support would show the Court as follows:

**I.****DISCOVERY CONTROL LEVEL**

1. Pursuant to the Texas Rules of Civil Procedure, discovery shall be conducted in accordance with Tex. R. Civ. P. 190.3 (Level 2).

**II.****PARTIES**

2. Plaintiff, Jasper N. Long, ("Long"), is a citizen of Texas and resident of Jasper County, Texas, who was the owner of a warehouse located at the corner of Lynn and McQueen Street (600 McQueen Street) in Jasper, Texas, (the "warehouse") which was damaged as a result of Defendant's actions asserted below, and brings this action on their own behalf, and on behalf of, and for, the interests of all parties who may be or become interested in the warehouse in question.



**III.**

3. Defendant, FAENAS Transport, LLC. (hereafter “Defendant” or “FAENAS”), was and now is a Utah corporation, or similar entity, offering interstate trucking services with authority to sue and be sued, which regularly operates in Texas as a common carrier and interstate trucker. FAENAS does not maintain a regular place of business in Texas, and does not maintain a designated agent on whom service may be made. Thus, FAENAS may be served under the Texas Long Arm Statute, through its Utah home office at: 4436 South Orleans Way, West Valley City, UT 84120.

**IV.**

**JURISDICTION & VENUE**

4. The amount in controversy is within jurisdictional limits of this Court. Plaintiff seeks monetary relief over \$100,000.00. Plaintiff seeks damages in excess of \$600,000.

5. Jasper County is the proper venue for this action, pursuant to the Texas Civil Practice and Remedies Code, Section 15.002(a)(3) *et seq.*, because the incident related to the loss in question occurred in Jasper County, Texas.

**V.**

**APPLICABLE FACTS AND CAUSES OF ACTION**

6. At all times relevant to the occurrence in question, Defendant FAENAS, including its drivers, agents, servants and employees, operated an interstate trucking business, with a responsibility to those which encountered its vehicles to observe all State, Federal and local traffic regulations, and to observe their surrounding as to avoid incidents which might cause damage to life and property. As an operator of heavy overland transport trucks, FAENAS had a duty to exercise reasonable care to the public it encounters to avoid foreseeable risk of injury to others, and to property, at any facility

where they were providing trucking services, or by which their drivers might transit, or come near enough to cause harm.

7. At the time, and on the occasion in question, Defendant FAENAS, including their agents, servants and employees, were negligent in the course and scope of their efforts to pick up and deliver goods, and the places their driver transited when providing those trucking services to the Jasper, Texas, and vicinity. FAENAS's negligence was the proximate cause of the occurrence in question and the damages suffered by Plaintiff. A FAENAS truck struck an active electrical power pole or wires, causing a fire which destroyed the warehouse and its contents owned by Plaintiff at 600 McQueen Street, Jasper, Texas and resulting in the damages asserted herein.

8. The allegations of negligence, which led to Plaintiff's loss, are plead against Defendant hereby, as follows:

- a. Defendant FAENAS's negligence in failing to leave a properly trained and adequately qualified driver to handle turning and backing maneuvers of his truck near the premises of Long's warehouse in Jasper, Texas;
- b. Defendant FAENAS's trucker's negligence in failing to properly observe his surroundings and adequately review the premises where he was maneuvering his vehicle, on and near Long's property in Jasper, Texas, which caused defendant's driver to strike a power pole, or power line, starting a fire which consumed Long's warehouse. The incident occurred on or about June 22, 2018 causing the damages in question;
- c. Defendant FAENAS's driver's failure to follow proper safety procedures, including improper maneuvering of his transfer truck near a clearly visible electrical transmission power pole or line which caused it fall and the resulting in the damages incurred in this case,

d. Defendant FAENAS's failure to properly train its employees regarding safe worksite practices, which would have prevented their driver's maneuvering accident and the electrical fire at the site in question.

e. Defendant FAENAS's negligence in failing to provide adequate equipment for its trucks (backup carriers and the like) which would have enabled their driver to see the power pole or lines in question and avoid the incident which caused the damages in question;

f. Defendant FAENAS's failure to properly review and inspect the adequacy of the safety equipment on the vehicles its drivers use, which, if properly inspected and maintained, would have prevented the incident in question in Jasper County, Texas;

g. Defendant FAENAS's negligence in failing to establish, and/or follow, reasonable safety rules and regulations in anticipation of tight vehicle maneuvers near electrical lines which would have prevented the striking of the electrical pole or lines in question); and

h. Defendant FAENAS's driver's unlawful departure from the scene where the fire started, and failure to immediately report the felling of the power pole or lines, which would have prevented, or diminished the extent of damages to the Long warehouse in question. The failure to report its damage to the pole or line invokes violation of Texas statutes for driving regulations concerning the reporting of such events and invokes the legal principal of "negligence per se" in failing to follow applicable and reasonable trucking safety standards and regulations; and

9. The damages sustained by Plaintiff are a direct and proximate result of the negligent acts and/or omissions of Defendant FAENAS.

10. As a direct result of the above-stated negligence, Plaintiff has sustained \$607,942.00 or more in damages which were proximately caused by the negligent actions and/or omissions of Defendant

FAENAS. Plaintiff therefore prays for recovery of \$607,942.00 or more in damages from FAENAS as stated herein.

**VI.**

**PRIVATE NUISANCE**

11. Plaintiff had a private interest in its warehouse and Defendant's actions substantially interfered with Plaintiff's interest in the use and enjoyment of its warehouse. Specifically, Defendant created or caused a condition negligently, and as a result, the Plaintiff suffered injury and damages.

**VII.**

**TRESPASS**

12. Plaintiff owned or had a lawful right to possess real property, specifically his warehouse. Defendant trespassed and caused a light pole or line to trespass into Plaintiff's warehouse, and the trespass Defendant caused resulted in injury to Plaintiff's right of possession.

**VIII.**

**GROSS NEGLIGENCE**

13. In the alternative, and without waiving the above causes of action, Plaintiff pleads that the conduct of Defendant FAENAS constitutes gross negligence or conscious indifference. Defendant's actions involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others. Defendant FAENAS had actual subjective awareness of the risk involved (see factors listed in paragraphs above), but nevertheless proceeded with conscious indifference to the rights, safety and welfare of others. Furthermore, in violation of Texas "rules of the road" and statutes requiring reporting of an accident, FAENAS's truck driver departed the scene without reporting the accident, preventing proper notification efforts, which might have prevented or



ameliorated the damage caused by the fire, which consumed Plaintiff's warehouse. As such, Plaintiff is entitled to recovery of exemplary or punitive damages as allowed by law.

**IX.**

**CONDITIONS PRECEDENT SATISFIED**

14. Plaintiff has performed all conditions precedent necessary to allow recovery.

**X.**

**DAMAGES**

15. By reason of these premises, Plaintiff has sustained actual damages, as nearly as same can now be estimated, no part of which has been paid although duly demanded, in the amount of \$607,942.00 for which Plaintiff, Jasper Long's claims relief from Defendant FAENAS. Plaintiff also seeks exemplary or punitive damages (as allowed by law), prejudgment interest, post-judgment interest, and all costs of court through trial and any appeals.

**XI.**

**CLAIM FOR PREJUDGMENT INTEREST**

16. Plaintiff is also entitled to prejudgment interest from July 22, 2019, at the prejudgment rate of interest established by Texas law.

**XII.**

**REQUESTS FOR DISCLOSURE**

17. Under Texas Rule of Civil Procedure 194, Plaintiffs request that Defendant disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

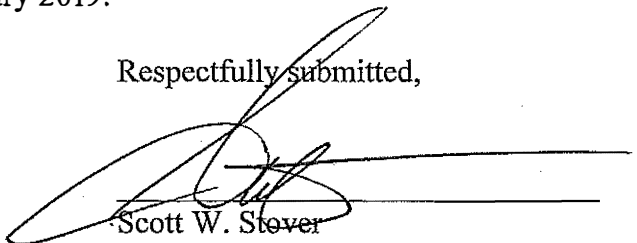
**XIII.**

**PRAYER**

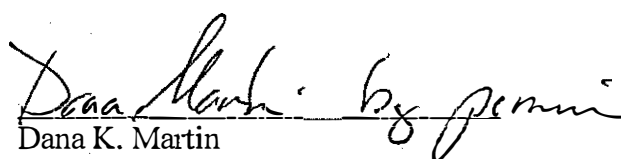
18. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that this Court issue a summons to the Defendant, requiring them to appear, and that this Court award judgment to Plaintiff, and against Defendant, including damages of \$607,942.00, pre-judgment interest, exemplary or punitive damages as allowed by law, post-judgment interest, costs of court, and such other and further relief to which Plaintiff may show itself to be justly entitled.

Dated this 221<sup>st</sup> day of January 2019.

Respectfully submitted,



\_\_\_\_\_  
Scott W. Stover  
Texas Bar No. 19349400  
Seale, Stover, & Bisbey  
9450 N. Wheeler  
P.O. Box 480  
Jasper, TX 75951  
Telephone: (409) 384-3463  
Telefax: (409) 384-3017  
Email: swstover@sealestover.com  
LOCAL ATTORNEY FOR PLAINTIFF  
JASPER N. LONG



\_\_\_\_\_  
Dana K. Martin  
Texas Bar No.: 13057830  
HILL RIVKINS LLP  
55 Waugh Dr., Suite 1200  
Houston, Texas 77007  
Telephone: (713) 457-2287  
Telefax: (713) 222-1359  
Email: dmartin@hillrivkins.com

ATTORNEYS IN CHARGE FOR PLAINTIFF  
JASPER N. LONG

Cheryl Brown, Deputy

## REQUEST FOR ISSUANCE OF SERVICE

Date Requested: 1/24/19Case Number: 37801Court Description: 1st Judicial DistrictType of Instrument to be served: Plaintiff's Original PetitionSERVICE TO BE ISSUED ON (Please list exactly as the name appears in the pleading to be served)Issue Service To: FAENAS Transport, LLCAddress of Service: 4436 South Orleans WayCity, State & Zip: West Valley City, UT 84120

Agent (IF APPLICABLE) \_\_\_\_\_

## TYPE OF SERVICE TO BE ISSUED:

Non Writ:

- ☒ Citation    ☐ Alias Citation    ☐ Pluries Citation    ☐ Citation by Publication    ☐ Secretary of State Citation  
☐ Notice    ☐ Precept    ☐ Rule 106 Service    ☐ Subpoena

Writ:

- ☐ Attachment (Person)    ☐ Attachment (Property)    ☐ Attachment (Witness)    ☐ Certiorari  
☐ Garnishment (Prejudgment)    ☐ Habeas Corpus    ☐ Injunction    ☐ Temporary Restraining Order  
☐ Possession (Person)    ☐ Possession (Property)    ☐ Protective Order (Family)    ☐ Protective Order (Civil)  
☐ Scire Facias    ☐ Sequestration    ☐ Supersedeas  
☐ Other (Please Describe): \_\_\_\_\_

UPON ISSUANCE OF SERVICE: (CHECK ONE ONLY)☐ Send to Sheriff

Note: Citation(s) to be served by Constable will be RETURNED TO REQUESTOR to make arrangements to deliver and make payment for service directly with the Constable

☐ Civil Process Server (Include the name of the Authorized Person to pick-up): \_\_\_\_\_☐ Call attorney for pick up (Phone Number): \_\_\_\_\_☒ Mail to attorney at: send by email: kanderson@sealestover.com

(Please include a self addressed stamped envelope): \_\_\_\_\_

☐ District Clerk serve by certified mailISSUANCE OF SERVICE REQUESTED BY:Attorney/Party Name: Scott W. StoverLaw Firm (if applicable): Seale, Stover & BisbeyBar Number: 19349400Address: P.O. Box 480Jasper, Texas 75951Phone Number: 409-384-3463Email Address: swstover@sealestover.com

\*\*\*Service will only be issued upon payment of costs\*\*\*

Date Fees Paid: \_\_\_\_\_

Amount: \_\_\_\_\_

Method of Payment: \_\_\_\_\_

Signature of Attorney Requesting service: \_\_\_\_\_

**CAUSE NO. 37801**

<b>JASPER N. LONG.</b>	§	<b>IN THE DISTRICT COURT</b>
<b>Plaintiff</b>	§	
	§	
	§	
<b>v.</b>	§	<b>1ST JUDICIAL DISTRICT</b>
	§	
	§	
<b>FAENAS TRANSPORT, LLC.</b>	§	
<b>Defendant.</b>	§	<b>JASPER COUNTY, TEXAS</b>

**PLAINTIFF'S FIRST AMENDED PETITION**

COMES NOW, Jasper N. Long ("Long"), Plaintiff in the above-entitled and numbered cause, complaining of FAENAS Transport, LLC ("FAENAS"), Defendant, and in support would show the Court as follows:

**I.****DISCOVERY CONTROL LEVEL**

1. Pursuant to the Texas Rules of Civil Procedure, discovery shall be conducted in accordance with Tex. R. Civ. P. 190.3 (Level 2).

**II.****PARTIES**

2. Plaintiff, Jasper N. Long, ("Long"), is a citizen of Texas and resident of Jasper County, Texas, who was the owner of a warehouse located at the corner of Lynn and McQueen Street (600 McQueen Street) in Jasper, Texas, (the "warehouse") which was damaged as a result of Defendant's actions asserted below, and brings this action on their own behalf, and on behalf of, and for, the interests of all parties who may be or become interested in the warehouse in question.



**III.**

3. Defendant, FAENAS Transport, LLC. (hereafter “Defendant” or “FAENAS”), was and now is a Utah corporation, or similar entity, offering interstate trucking services with authority to sue and be sued, which regularly operates in Texas as a common carrier and interstate trucker. FAENAS does not maintain a regular place of business in Texas, and does not maintain a designated agent on whom service may be made. Thus, FAENAS may be served under the Texas Long Arm Statute, through its Utah home office at: 4436 South Orleans Way, West Valley City, UT 84120.

**IV.**

**JURISDICTION & VENUE**

4. The amount in controversy is within jurisdictional limits of this Court. Plaintiff seeks monetary relief over \$100,000.00. Plaintiff seeks damages in excess of \$600,000.

5. Jasper County is the proper venue for this action, pursuant to the Texas Civil Practice and Remedies Code, Section 15.002(a)(3) *et seq.*, because the incident related to the loss in question occurred in Jasper County, Texas.

**V.**

**APPLICABLE FACTS AND CAUSES OF ACTION**

6. At all times relevant to the occurrence in question, Defendant FAENAS, including its drivers, agents, servants and employees, operated an interstate trucking business, with a responsibility to those which encountered its vehicles to observe all State, Federal and local traffic regulations, and to observe their surrounding as to avoid incidents which might cause damage to life and property. As an operator of heavy overland transport trucks, FAENAS had a duty to exercise reasonable care to the public it encounters to avoid foreseeable risk of injury to others, and to property, at any facility

where they were providing trucking services, or by which their drivers might transit, or come near enough to cause harm.

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8. The allegations of negligence, which led to Plaintiff's loss, are plead against Defendant here by, as follows:

a. Defendant FAENAS's negligence in failing to leave a properly trained and adequately qualified driver to handle turning and backing maneuvers of his truck near the premises of Long's warehouse in Jasper, Texas;

b. Defendant FAENAS's trucker's negligence in failing to properly observe his surroundings and adequately review the premises where he was maneuvering his vehicle, on and near Long's property in Jasper, Texas, which caused defendant's driver to strike a power pole, or power line, starting a fire which consumed Long's warehouse. The incident occurred on or about June 22, 2018 causing the damages in question;

c. Defendant FAENAS's driver's failure to follow proper safety procedures, including improper maneuvering of his transfer truck near a clearly visible electrical transmission power pole or line which caused it fall and the resulting in the damages incurred in this case,

d. Defendant FAENAS's failure to properly train its employees regarding safe worksite practices, which would have prevented their driver's maneuvering accident and the electrical fire at the site in question.

e. Defendant FAENAS's negligence in failing to provide adequate equipment for its trucks (backup carriers and the like) which would have enabled their driver to see the power pole or lines in question and avoid the incident which caused the damages in question;

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g. Defendant FAENAS's negligence in failing to establish, and/or follow, reasonable safety rules and regulations in anticipation of tight vehicle maneuvers near electrical lines which would have prevented the striking of the electrical pole or lines in question); and

h. Defendant FAENAS's driver's unlawful departure from the scene where the fire started, and failure to immediately report the felling of the power pole or lines, which would have prevented, or diminished the extent of damages to the Long warehouse in question. The failure to report its damage to the pole or line invokes violation of Texas statutes for driving regulations concerning the reporting of such events and invokes the legal principal of "negligence per se" in failing to follow applicable and reasonable trucking safety standards and regulations; and

9. The damages sustained by Plaintiff are a direct and proximate result of the negligent acts and/or omissions of Defendant FAENAS.

10. As a direct result of the above-stated negligence, Plaintiff has sustained \$607,942.00 or more in damages which were proximately caused by the negligent actions and/or omissions of Defendant

FAENAS. Plaintiff therefore prays for recovery of \$607,942.00 or more in damages from FAENAS as stated herein.

**VI.**

**PRIVATE NUISANCE**

11. Plaintiff had a private interest in its warehouse and Defendant's actions substantially interfered with Plaintiff's interest in the use and enjoyment of its warehouse. Specifically, Defendant created or caused a condition negligently, and as a result, the Plaintiff suffered injury and damages.

**VII.**

**TRESPASS**

12. Plaintiff owned or had a lawful right to possess real property, specifically his warehouse. Defendant trespassed and caused a light pole or line to trespass into Plaintiff's warehouse, and the trespass Defendant caused resulted in injury to Plaintiff's right of possession.

**VIII.**

**GROSS NEGLIGENCE**

13. In the alternative, and without waiving the above causes of action, Plaintiff pleads that the conduct of Defendant FAENAS constitutes gross negligence or conscious indifference. Defendant's actions involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others. Defendant FAENAS had actual subjective awareness of the risk involved (see factors listed in paragraphs above), but nevertheless proceeded with conscious indifference to the rights, safety and welfare of others. Furthermore, in violation of Texas "rules of the road" and statutes requiring reporting of an accident, FAENAS's truck driver departed the scene without reporting the accident, preventing proper notification efforts, which might have prevented or



ameliorated the damage caused by the fire, which consumed Plaintiff's warehouse. As such, Plaintiff is entitled to recovery of exemplary or punitive damages as allowed by law.

**IX.**

**CONDITIONS PRECEDENT SATISFIED**

14. Plaintiff has performed all conditions precedent necessary to allow recovery.

**X.**

**DAMAGES**

15. By reason of these premises, Plaintiff has sustained actual damages, as nearly as same can now be estimated, no part of which has been paid although duly demanded, in the amount of \$607,942.00 for which Plaintiff, Jasper Long's claims relief from Defendant FAENAS. Plaintiff also seeks exemplary or punitive damages (as allowed by law), prejudgment interest, post-judgment interest, and all costs of court through trial and any appeals.

**XI.**

**CLAIM FOR PREJUDGMENT INTEREST**

16. Plaintiff is also entitled to prejudgment interest from July 22, 2018, at the prejudgment rate of interest established by Texas law.

**XII.**

**REQUESTS FOR DISCLOSURE**

17. Under Texas Rule of Civil Procedure 194, Plaintiffs request that Defendant disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

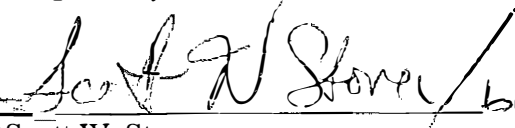
**XIII.**

**PRAYER**

18. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that this Court issue a summons to the Defendant, requiring them to appear, and that this Court award judgment to Plaintiff, and against Defendant, including damages of \$607,942.00, pre-judgment interest, exemplary or punitive damages as allowed by law, post-judgment interest, costs of court, and such other and further relief to which Plaintiff may show itself to be justly entitled.

Dated this 22<sup>st</sup> day of January 2019.

Respectfully submitted,

  
by Dkm

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